29

HIGH COURT OF CHHATTISGARH, BILASPUR

(SB: Hon'ble Shri Justice Rangnath Chandrakar)

Misc. Appeal (C) No. 1231 of 2007

Appellant **Applicant**		Kumari Sudha Sahu, d/o. Shri Dadhibal Sahu, by caste Teli, aged about 22 years, resident of Police line, Jagdalpur, District Bastar (CG).
	Vs.	
Respondents	1.	Dilip Kumar Sahu, s/o. Shri Nepal Singh Sahu, resident of village Dabhari, Police Station Kanwar, District Durg (CG).
	2.	Smt. Asha Mandal, w/o. Sapan Mandal, resident of Mana Camp Raipur, District Raipur (CG).
	3.	The New India Insurance Company Limited through Branch Office Jagdalpur, District Bastar (CG). (Insurance Company).

(Appeal under Section 173 of the Motor Vehicle Act, 1988)

Present:

Ms. Mala Dubey, counsel for the appellant.
Mr. Shivendu Pandya, counsel for the respondent No.3.

ORDER

(10-4-2012)

1. By this appeal filed under Section 173 of the Motor Vehicle Act, 1988 (for short, "the Act 1988"), the appellant/claimant seeks enhancement of compensation awarded by Additional Motor Accident Claims Tribunal, Bastar at Jagdalpur (for short, "the Tribunal"), vide award dated 28-3-2007 passed in Claim Case No. 20/2006.

2. As against the compensation of Rs.3,31,000/- claimed by the appellant /claimant by filing application under Section 166 of the Motor Vehicles Act for the injuries sustained by her in the motor accident on 21-12-2005, learned Tribunal has awarded a total sum of Rs. 56,315/- as

29

compensation to the appellant/claimant along with interest @ 7 ½ % per annum from the date of filing of the application till the date of actual payment .

3. The learned Tribunal, on a close scrutiny of the evidence led before it held that collision took place between Hero Puch and Truck bearing registration No. CG-04/J/1122. The accident occurred due to rash and negligent driving of Truck by its driver – Dilip Kumar Sahu i.e., respondent No.1 as a result of which the appellant/claimant sustained multiple injuries including fracture in the said accident; respondents were held liable for payment of compensation and assessed the aforesaid sum as compensation to the appellant/claimant.
4. Ms. Mala Dubey, learned counsel appearing for the appellant submits that the learned Tribunal has not awarded any sum towards loss of income during the period of treatment, conveyance and attendant. The Tribunal has further erred in awarding low compensation of Rs. 56,315/- which deserves to be enhanced suitably.
5. *Per contra*, Mr. Shivendu Pandya learned counsel for the respondent No.3 contended that the amount of compensation of Rs.56,315/- awarded by the Tribunal, in the facts and circumstances of the case, is just and proper compensation which does not call for any interference.
6. I have heard learned counsel for the parties, perused the impugned award and record of the tribunal.
7. After considering the number and nature of the injuries proved to have been sustained by the claimant/appellant in the motor accident and the amount proved to have been spent on treatment, the Tribunal awarded the aforesaid amount as compensation under the heads of medical expenses, pain and suffering and special diet but the Tribunal has erred in not awarding compensation under the other heads of loss of income during the period of treatment, attendant and conveyance.

30

8. Claimant/appellant was aged about 22 years on the date of accident and was in Government service working as a Teacher and she used to earn Rs.3000/- per month, as she sustained multiple injuries including fracture due to accident she was unable to perform his duties for some period and did not receive salary for the period of treatment due to accident, therefore, admittedly there must have been loss of income. The appellant/claimant sustained multiple serious injuries including fracture in the motor accident is borne out from the evidence available on record. It is a common knowledge that substantial amount is required to be spent on the treatment of grievous injuries sustained by him. The tribunal has certainly erred in not awarding any sum towards conventional head of conveyance, attendant and loss of income.

9. The compensation of Rs.56,315/- awarded by the tribunal when examined in the context of the above mentioned broad features of the case, in my opinion, is certainly on the lower side which deserves to be enhanced suitably.

10. Considering all the relevant aspects of the matter, I am of the considered opinion that further award of Rs. 20,000/- (towards conveyance, attendant and loss of income) to the appellant/claimant inclusive of interest component on the enhanced amount of compensation would make the compensation of Rs.56,315/- awarded by the Tribunal as just and proper compensation in the facts and circumstances of the present cases.

11. Accordingly, the appeal filed by the appellant/claimant for enhancement of the compensation is partly allowed. The appellant/claimant is awarded further sum of Rs.20,000/- inclusive of interest component in addition to the sum of Rs.56,315/- awarded by the Tribunal.

31

12. Respondent No.3 The New India Insurance Company Limited is granted three months' time for depositing the total sum of Rs.20,000/- to the appellant before the concerning claims Tribunal.

13. No order as to costs.

Sd/-
R.N. Chandrakar
Judge

Raju